



IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION

JOHN RAY,

Plaintiff,

CIVIL ACTION NO. 3:09CV34

v.

VIA SATELLITE, INC., a foreign
corporation, and
WARREN STAFFING COMPANY, INC.,
a foreign corporation, and
JEFFREY LEHEW, individually and
in his corporate capacity, and
SONDRA LEHEW, individually and
in her corporate capacity,

Defendants.

NOTICE OF REMOVAL

Defendants, Via Satellite, Inc. ("Via Satellite"), Warren Staffing Company, Inc. ("Warren Staffing"), Jeffrey LeHew, and Sondra LeHew, by and through their counsel, Rodney L. Bean and Sarah L. Hinkle, and the law firm of Steptoe & Johnson PLLC, pursuant to 28 U.S.C. §1446, file this Notice of Removal. The specific grounds for Defendants' removal are set forth as follows:

1. Defendants Via Satellite, Warren Staffing, Jeffrey LeHew, and Sondra LeHew, hereby remove this civil action from State Court to Federal District Court.
2. Jurisdiction resides with the Federal District Court pursuant to the federal questions alleged in Plaintiff's Complaint. The above-titled action was commenced originally in the Circuit Court of Berkeley County, West Virginia, on or about May 1, 2009, as Civil Action No. 09-C-378 ("state court action"), which action is now pending in that court. The Summons and Complaint, which were duly filed in the Office of the Clerk of the Circuit Court of Berkeley

County, were served upon the Defendants on or about May 8, 2009, through the West Virginia Secretary of State.

3. This case is removed on the basis that the claims asserted raise issues over which the Federal Court has subject matter jurisdiction.

4. Plaintiff alleges, *inter alia*, that Defendants violated the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.*, by failing to pay Plaintiff for hours worked in excess of 40 per week.

5. The Plaintiff's alleged claims arise, if at all, under the laws of the United States. Accordingly, this Court has subject matter jurisdiction pursuant to the provisions of 28 U.S.C. §1331 and 28 U.S.C. § 1441.

6. This Notice of Removal is filed in this Court within thirty (30) days after the receipt by Defendants, through service or otherwise, of a copy of Plaintiffs' Complaint setting forth his claims for relief.

7. Defendants will, after the filing of this Notice of Removal, promptly give written notice thereof to all adverse parties as required by law, and will file a true and correct copy of this Notice of Removal with the Clerk of the Circuit Court of Berkeley County, West Virginia, as provided by law.

WHEREFORE, Defendants hereby remove the action currently pending in the Circuit Court of Berkeley County, West Virginia, as Civil Action No. 09-C-378, to this Honorable Court.

Pursuant to the provisions of 28 U.S.C. §1446(d), the State Court must proceed no further with this action.

Respectfully submitted this 9 day of May, 2009.

**VIA SATELLITE, INC., WARREN STAFFING
COMPANY, JEFFERY LEHEW, and SON德拉
LEHEW**

**Defendants
By Counsel**



Rodney L. Bean (W. Va. Bar No. 6012)
Steptoe & Johnson PLLC
United Center, Suite 400
1085 Van Voorhis Road
P.O. Box 1616
Morgantown, WV 26507-1616
Tel: (304) 598-8140
Fax: (304) 598-8116
rodney.bean@steptoe-johnson.com

Sarah L. Hinkle (W. Va. Bar No. 10952)
Steptoe & Johnson PLLC
1250 Edwin Miller Blvd, Suite 300
P.O. Box 2629
Martinsburg, WV 25402-2629
Tel: (304) 263-6991
Fax: (304) 262-3541
sarah.hinkle@steptoe-johnson.com

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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of May, 2009, I served the foregoing "NOTICE OF REMOVAL" upon counsel of record, by depositing a true copy thereof in the United States mail, postage prepaid, in an envelope addressed as follows:

Robert J. Schiavoni
David M. Hammer
Hammer, Ferretti, & Schiavoni
408 West King Street
Martinsburg, WV 25401


Sarah L. Hinkle